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Safeguarding Against Organizational Conflict of Interest (OCI) on the Future Combat Systems (FCS) Program

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It's an average workday. You're enjoying your first cup of coffee while leafing through the newspaper. A headline demands your attention: *Responsible Public Servant Denies Conflict of Interest*. You quickly scan the article in an attempt to extract names. Gratefully, it's not related to your program or agency.

Here, participants are educated on source selection best-value trade-off methodology, processes and procedures in preparation for a fully integrated evaluation. (U.S. Army photo by Jill Nicholson, FCS(BCT) SP30 Directorate.)

The impact of a conflict of interest is significant. Whether we view ourselves as shareholders, citizens or casual observers, the mere appearance of impropriety is enough to undermine our confidence in individuals, corporations and the reputations of entire professions. Government employees are all too aware of the public scrutiny placed on the acquisition process in an attempt to ensure prudent expenditure of precious taxpayer dollars.

To provide the best-value product or service to meet customer needs, each member of an acquisition team has the responsibility to exercise sound business judgment in selecting a prime contractor. The FCS program expands this responsibility by having established competitive trade-off source selection procedures and processes used by the Lead Systems Integrator (LSI), the Boeing Co., in selecting subcontractors representing the best of industry to develop the FCS System-of-Systems (SoS).

The LSI used the Army Source Selection Guide and the trade-off source selection procedures of *Federal Acquisition Regulation, Part 15*, as the model for establishing its generic source selection evaluation plan and processes to support competitive trade-off source selections during the FCS program's System Development and Demonstration (SDD) Phase.

The LSI has successfully implemented this plan leading to the selection and awarding more than 20 major/critical subcontracts.

OCI Safeguards

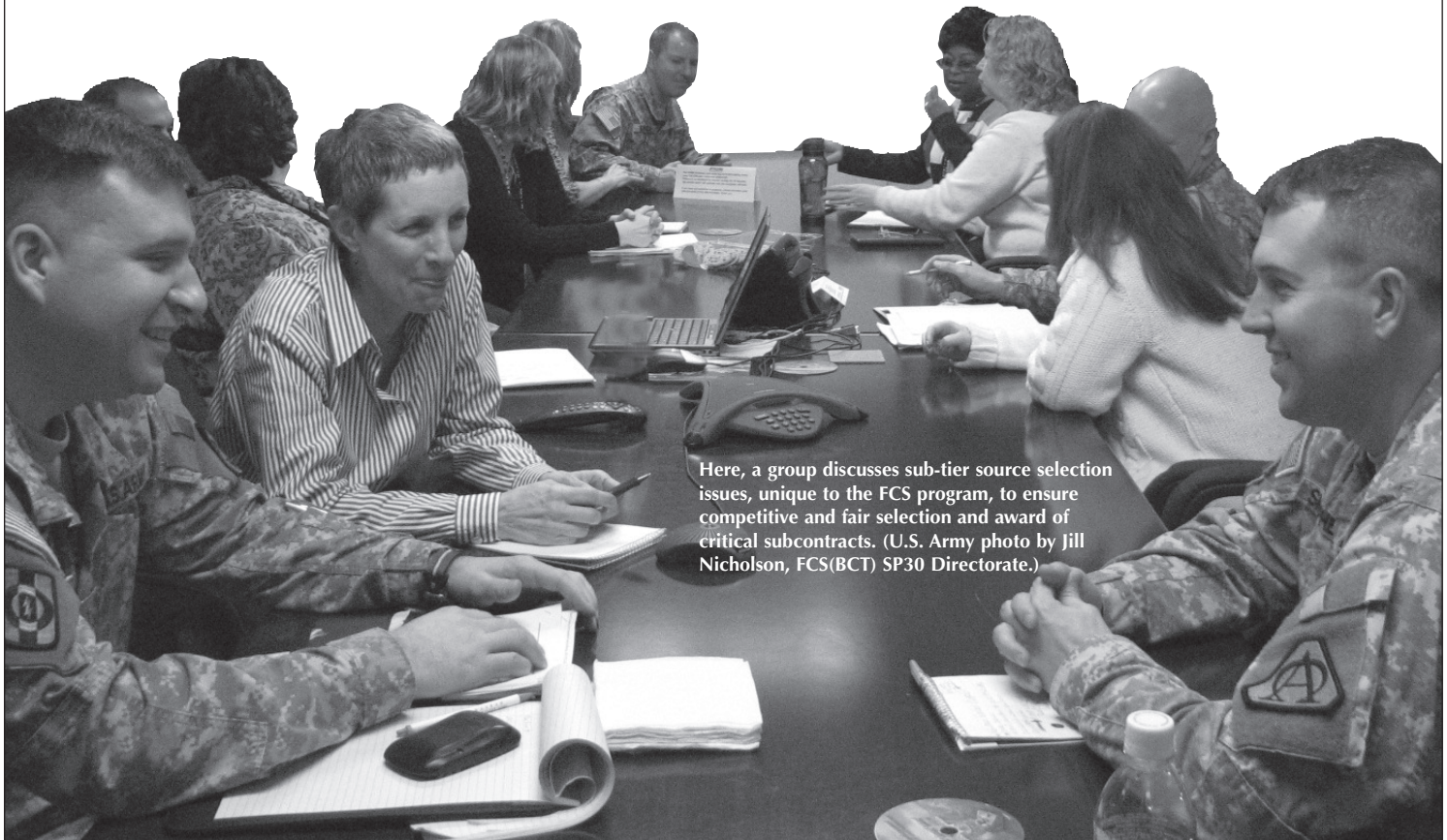
Both the SDD contract and the LSI's generic source selection evaluation plan incorporated language to safeguard against OCI. The prime contract OCI clause includes two key prohibitions — both the LSI for FCS

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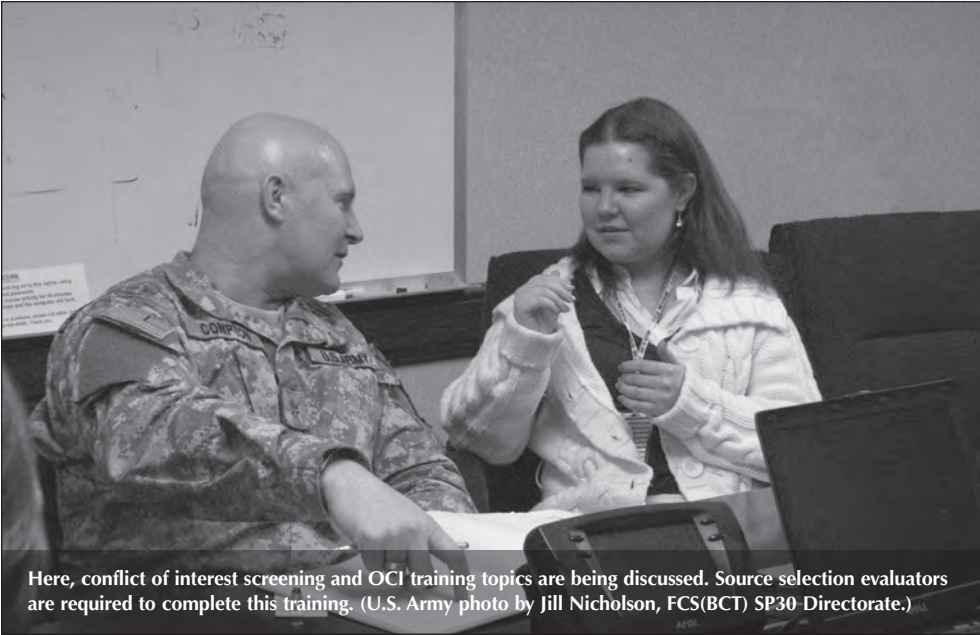
SDD and its subcontractor, Science Applications International Corp. (SAIC), are prohibited from competing for work under the SDD contract at any tier. Also, the clause prohibits subcontractors from preparing Request for Proposal (RFP) documents and from conducting or participating in a source selection if any part of its organization submits a proposal.

The clause also requires the LSI to flow down an OCI provision in its subcontracts at all tiers.

Since Boeing and SAIC are prohibited from competing under the SDD contract, that eliminates all possible OCI issues at that level. At the subcontractor levels, the FCS OCI safeguards work as follows. Let's assume an FCS



Here, a group discusses sub-tier source selection issues, unique to the FCS program, to ensure competitive and fair selection and award of critical subcontracts. (U.S. Army photo by Jill Nicholson, FCS(BCT) SP30 Directorate.)



Here, conflict of interest screening and OCI training topics are being discussed. Source selection evaluators are required to complete this training. (U.S. Army photo by Jill Nicholson, FCS(BCT) SP30 Directorate.)

first tier subcontractor is planning to conduct a competition to select a lower tier subcontractor. If the FCS first tier subcontractor intends to submit a proposal for that lower tier work, the subcontractor submits a Notice of Intent (NOI) to the LSI and is considered “conflicted.” In other words, the subcontractor cannot prepare RFP documents or conduct or participate in a source selection. At this point, the LSI takes action to assume the competitive source selection from the conflicted subcontractor. Any documentation that had been developed by the conflicted subcontractor prior to the NOI is sanitized by the LSI and government to prevent any competitive advantage during the solicitation and evaluation process.

From this point on, the LSI conducts the source selection. Once the award is made, the conflicted subcontractor assumes the contract back from the LSI, pursuant to an assignment agreement that is executed between the LSI and the conflicted subcontractor.

Overcoming Conflicts

The transfer of source selection responsibility from the conflicted subcontractor to the LSI poses some interesting challenges. For instance, frequently, proposals are received that contain differing terms and conditions that require resolution. Since our conflicted subcontractor is both a competitor and the ultimate customer (buyer), the LSI is precluded from contacting the conflicted subcontractor during discussions to resolve competitor term and condition issues. Therefore, a neutral third party is needed to contact the conflicted subcontractor

regarding the terms and conditions at issue. A government acquisition team member (who is also not on the source selection evaluation team (SSET)) fulfills this third party role using a technologically savvy method of secure communication, known as FCS’s Advanced Collaborative Environment (ACE).

Similar to Army Knowledge Online, one of ACE’s many capabilities is that

ACE’s successful integration into the source selection process to mitigate OCI ensures maximum competition from the best of industry and selection of the overall best-value proposal and SoS solution.

of a document storage system with the ability to limit access to only select users. It is in this way that the restricted conversation between the government and the conflicted subcontractor is accomplished. The government then forwards the results to the LSI, which completes a fully integrated evaluation, makes the final selection and awards the contract.

The LSI also established mandatory training for all SSET members that included elements of the subcontract OCI clause, firewall and procurement integrity, and a focus on appropriate communication between the LSI and conflicted subcontractor. Prospective contractor SSET members must complete and sign a conflict of interest questionnaire to screen out personnel with potential conflicts. Proprietary Information Agreements are executed to ensure the protection of proprietary data of the parties and third party data.

In the FCS Source Selection Organization, the government and industry are working together to maintain the integrity of competitive processes and ensure impartiality from the requirements development phase to proposal evaluation and final selection decision. ACE’s successful integration into the source selection process to mitigate OCI ensures maximum competition from the best of industry and selection of the overall best-value proposal and SoS solution.

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